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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,986	10/23/2000	Bernd Kiessling	P0H211	8912
7590	08/24/2004		EXAMINER	
Horst M Kasper 13 Forest Drive Warren, NJ 07059				PUNNOOSE, ROY M
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/673,986	KIESSLING ET AL. <i>AN</i>	
	Examiner	Art Unit	2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 June 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 19-21, 25 and 27 is/are allowed.
- 6) Claim(s) 1,2,7-11,14,22,24,26 and 29 is/are rejected.
- 7) Claim(s) 3-6,12,13,15-18,23,28 and 30 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 February 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/18/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION*Amendments*

1. Applicant's amendments received on June 18, 2003 are acknowledged. Applicant may have submitted amendments prior to the previous office action. But they were not matched with the file because the applicant has submitted the amendments with incorrect application serial number. It should be noted that only claims 1-8 were present in the application when the last office action was mailed on March 26, 2003. Currently there are 30 claims pending in the application.

2. In each of the previous office actions, the Examiner has listed several 35 U.S.C. 112, second paragraph deficiencies/errors and objections related to language used in claims 1 and 2. In the interview with Attorney Horst Kasper (Reg.No.28,559) on August 20, 2002 the Examiner pointed out the deficiencies/errors of claims 1 and 2 to Attorney Kasper. It appears that the applicant has made some of the required corrections, but has introduced new errors in the previously presented/amended claims and also in the newly introduced claims, which is the subject of this office action. Applicant is required to make all necessary corrections in response to this office action, failure of which will be considered as the applicant non-responsive to the instant office action.

3. The applicant has amended the originally presented claims and added several new claims on several occasions in the form of pre-amendments. In the process, the applicant did not include the entire set of claims and presented only claims that were amended in the papers submitted to the office. The claims that were not amended were left out from the papers that were submitted to the office. Further, when the applicant submitted the amendments via numerous faxes to the office on June 18, 2003, pages 9-26 of the document marked

“POH211A6” were missing. Additionally, the applicant has made amendments to the specification on numerous occasions. As a result, the application has become fragmented and the examination of the case has become extremely difficult and confusing. Applicant’s submission of the several pre-amendments with incorrect application serial number, and upon realization of the error, subsequent re-submission of multiple pre-amendments on June 18, 2003 has only compounded the problems.

For the reasons stated above, the Examiner is requesting the applicant to make all the required corrections to the application and submit a clean version of the specification and the pending claims so that prosecution can be done expeditiously.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 2, 7, 9, 10, 11, 14, 22, 24, 26, 29 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are rejected because they are generally narrative and indefinite, failing to conform to current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example,

- a. In claim 1:

- i. The recitation “... wherein two reflexes of light occurring at a front side and at a rear side, ...” creates a doubt as to whether there are two reflections each at a front side and at a rear side.

- ii. The term “furthermore” (see line 7) creates a doubt as to whether there was an earlier step of imaging. Please note that according to Webster’s dictionary, “furthermore” means “in addition.”
 - iii. The recitation “... furthermore onto a second optoelectronic image resolving sensor” (see lines 7-8) creates the perception that there was an earlier step of imaging onto a first optoelectronic image-resolving sensor. But there is no disclosure of a first optoelectronic image-resolving sensor in the claim.
 - iv. The repetition of a second optoelectronic image resolving sensor (see lines 12-13) creates a doubt as to whether this is a first optoelectronic image-resolving sensor the applicant intended to include in the claim.
 - v. The recitation “... wherein reflexes of light are imaged...” (see line 12) creates a doubt as to which light the applicant is referring to – the first or the second reflection of light, or both?
 - vi. With regard to the recitation “... wherein the average value of distances” (see line 13), there is no prior disclosure of a measurement of distance in the claim, and therefore creates doubt as to what distance is the applicant referring to.
- b. In Claim 2:
- vii. The recitation “... beams reflected *at* the transparent object” (see line 8) is grammatically incorrect. A more appropriate recitation would be “... beams reflected *by* the transparent object” or, “... beams reflected *from* the transparent object”.

viii. The lack of disclosure of a “third lens” creates the perception of an incomplete structure of applicant’s claimed invention. Note that first, second and fourth lenses are disclosed in the claim.

ix. The recitation “... disposed *following to* the second lens” (see line 11) is grammatically incorrect. The Examiner suggests terms such as “*opposite to*” or, “*adjacent to*” or other appropriate words be used to avoid confusion.

c. In claim 7:

x. Reference characters corresponding to elements shown in the drawings may be used in conjunction with the recitation of the same element or group of elements in the claims. But reference characters corresponding to elements shown in the drawings cannot be used alone in the place of the recitation of an element or group of elements in the claim. In line 7, the claim recites “ ... surfaces (11) and (21) respectively.” This is an inappropriate format for the recitation of a claimed element or group of elements in the claim.

xi. Claim 7 lists a set of elements and does not disclose how the elements or group of elements are connected together or structured in applicant’s claimed invention. Mere recitation of the elements or parts without disclosing how the elements are connected together or structured does not constitute a device for measuring wall thickness of a transparent object.

d. In claim 8:

xii. Claim 8 recites the limitation "the diverging light beams" in line 13. It creates a doubt as to whether the applicant is referring to the diverging light beams disclosed in line 3, or if it is a new set of diverging light beams created by the reflection of light by the front and the rear sides of the container glass.

e. Claims 9, 10, 11, 14, 22, 24, 26 and 29 have errors similar to errors listed in claims 1, 2 and 7 above. For example.

xiii. The method steps in lines 9-12 of claim 29 are confusing and difficult to understand to one of ordinary skills in the art.

The above listed errors and deficiencies have made the claims vague and indefinite. Appropriate corrections of all the errors listed above are required in response to this office action.

6. As an example and for the sake of illustration, the Examiner has made corrections to claim 8 as shown below, which may be used by the applicant for correcting other claims in the instant application.

Claim 8. (amended) A method for performing contactless measurement of a wall thickness of transparent container glass comprising:

generating diverging light beams with a first illuminating surface (11) and with a second illuminating surface (21);

generating parallel light beams from the diverging light beams with a first lens (12) and with a second lens (22) respectively, and directing the generated parallel light beams by reflection from with a first semi-permeable mirror (13) and from with a second semi-permeable mirror (23) respectively;

focusing the directed parallel light beams onto a transparent object (1) having a front side (1.1) and a rear side (1.2);

reflecting focused parallel light beams from the front side (1.1) and the rear side (1.2);

generating parallel light beams from the diverging light beams reflected by the front side (1.1) and by the rear side (1.2) by a first objective (14) and by a second objective (24);

focusing the parallel light beams with a fourth lens (25) and with a third lens (15) respectively, and obtaining light values of focused parallel light beams with a second sensor (26) and with a first sensor (25) respectively;

analyzing obtained light values; and

determining a wall thickness of the transparent object (1) with a controller (3).

Abstract

7. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

8. On line 9 of the abstract, the recitation "a first sensor (16) and a second sensor (26)," is an incomplete sentence, which simply lists two components of applicant's device without stating its relationship to the device or its function. Appropriate correction is required.

Information Disclosure Statement

9. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, " ... the list must be submitted in a separate paper."

The copies of PTO-1449 submitted by the applicant are hand-written and some of the writings are not readable. Further, the title of the first document listed under "Other Documents" on page 1 is incomplete. Therefore some of the IDSs submitted by the applicant have not been considered. Applicant is requested to re-submit new typed/printed copies of the PTO-1449s to correct the above noted errors and deficiencies.

Allowable Subject Matter

10. Claims 1, 2, 7-11, 14, 22, 24, 26 and 29 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

11. Claims 3-6, 12-13, 15-18, 23, 28 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if the objections to the base claims can be overcome, or, if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 19-21, 25 and 27 are allowable.

13. Claims 1, 2, 7-11, 19, 24, 25 and 27 are allowable because the prior art of record, taken alone or in combination, fails to disclose or render obvious a device or method for measuring wall thickness of a transparent object by directing light from two different directions and focusing them on the object to be measured to create reflection images

which are used to calculate wall thickness of said object in combination with the rest of the limitations of the respective claims.

14. Claims:

3-6 are allowable because they are dependent on independent claim 2 or an intermediate claim;

12-18 and 28 are allowable because they are dependent on independent claim 11;

20-22 are allowable because they are dependent on independent claim 19;

23 is allowable because it is dependent on independent claim 8;

26 is allowable because it is dependent on independent claim 7;

29 is allowable because it is dependent on independent claim 25;

30 is allowable because it is dependent on independent claim 27.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**. The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gregory J Toatley, Jr.** can be reached on **571-272-2800 ext 77**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Roy M. Punnoose
Patent Examiner
Art Unit 2877
August 11, 2004



Gregory J. Toatley, Jr.
Supervisory Patent Examiner